

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

**LOCAL GOVERNMENT:
MUNICIPAL SYSTEMS
AMENDMENT BILL**

[B 22—2010]

*(As agreed to by the Portfolio Committee on Co-operative Governance and
Traditional Affairs (National Assembly))*

[B 22A—2010]

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AMENDMENTS AGREED TO

LOCAL GOVERNMENT: MUNICIPAL SYSTEMS AMENDMENT BILL [B 22—2010]

CLAUSE 2

1. On page 3, in line 17, to omit “of a municipality”.
2. On page 3, in line 22, to omit “or acting municipal manager”.
3. On page 3, after line 24, to insert the following subsection:

“(2A) (a) A person appointed in terms of subsection (1)(b) may not be appointed to act for a period that exceeds three months.

(b) A municipal council may, in special circumstances and on good cause shown, apply in writing to the MEC for local government to extend the period of appointment contemplated in paragraph (a), for a further period that does not exceed three months.”.
4. In line 25, to omit “or acting municipal manager”.
5. In line 40, after “person” to insert “, on such conditions as prescribed,”.
6. In line 45, after “person”, to insert “, on such conditions as prescribed,”.

CLAUSE 3

1. On page 4, in line 19, after “(a)” to insert “(i)”
2. On page 4, in line 20, to omit “relevant”.
3. On page 4, after line 20, to insert the following paragraph:

“(c) A person appointed in terms of paragraph (a)(ii) may not be appointed to act for a period that exceeds three months: Provided that a municipal council may, in special circumstances and on good cause shown, apply in writing to the MEC for local government to extend the period of appointment contemplated in paragraph (a)(ii), for a further period that does not exceed three months.”.
4. On page 4, in line 21, to omit “to a post”.
5. On page 4, in line 22, after “(1)(a)”, to insert “(i)”.
6. On page 4, in line 29, after “(1)(a)”, to insert “(i)”.
7. On page 4, after line 36, to insert the following subsection:

“(4A) (a) The municipal council must, within 14 days of the date of appointment, inform the MEC for local government of the appointment process and outcome, as may be prescribed.

(b) The MEC for local government must, within 14 days of receipt of the information referred to in paragraph (a), submit a copy thereof to the Minister.”.

NEW CLAUSE

1. That the following be a new Clause:

Substitution of word in section 54A and section 56

4. The principal Act is hereby amended by the substitution, in section 54A and section 56, for the word “municipality”, wherever it occurs, of the words “municipal council”.

CLAUSE 5

1. On page 5, in line 42, to omit “or guidelines”.

CLAUSE 6

1. Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Insertion of section 57A in Act 32 of 2000

6. The following section is hereby inserted in the principal Act after section 57:

“Employment of dismissed staff and record of disciplinary proceedings

57A. (1) Any staff member dismissed for misconduct may only be re-employed in any municipality after the expiry of a prescribed period.

(2) The Minister must prescribe different periods of expiry, as contemplated in subsection (1), for different categories of misconduct.

(3) Notwithstanding subsection (1) and (2), a staff member dismissed for financial misconduct contemplated in section 171 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), corruption or fraud, may not be re-employed in any municipality for a period of ten years.

(4) Notwithstanding subsection (1), the Minister may prescribe acts of misconduct in respect of which no period need expire before a person may again be employed in any municipality.

(5) Subject to subsection (1), a decision to employ a person dismissed for misconduct must be taken with due regard to the nature of the misconduct concerned.

(6) A municipality must maintain a record that contains the prescribed information regarding the disciplinary proceedings of staff members dismissed for misconduct.

(7) A copy of the record referred to in subsection (6) must be submitted to the MEC for local government on a quarterly basis.

(8) The MEC for local government must, within 14 days of receipt of the record referred to in subsection (6), submit a copy thereof to the Minister.

(9) The Minister must maintain a record of all staff members that have—

(a) been dismissed for misconduct;
 (b) resigned prior to the finalisation of the disciplinary proceedings,
 which record must be made available to municipalities as prescribed.”.

CLAUSE 7

1. Clause rejected.

CLAUSE 10

1. Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Amendment of section 71 of Act 32 of 2000

10. The following section is hereby substituted for section 71 of the principal Act:

“Bargaining council agreements

71. (1) Organised local government must, before embarking on any negotiations with parties in the bargaining council established for municipalities, consult the—
 (a) Financial and Fiscal Commission established in terms of section 220 of the Constitution;
 (b) Minister; and
 (c) any other parties as may be prescribed.
 (2) Organised local government must in concluding any collective agreement resulting from negotiations contemplated in subsection (1), take into account—
 (a) the budgets of municipalities;
 (b) the fiscal capacity and efficiency of municipalities; and
 (c) national economic policies.
 (3) Municipalities must comply with any collective agreements concluded by organised local government within its mandate on behalf of local government in the bargaining council established for municipalities.”.

CLAUSE 11

1. On page 7, from line 19, to omit subparagraph (ii) and to substitute:
 - “(ii) municipal staff systems and procedures referred to in section 67(1) and the matters that must be dealt with in such systems and procedures, including—
 (aa) transfers; and
 (bb) termination of service.”.
2. On page 7, from line 29, to omit clause paragraph (c) and to substitute:
 - “(c) the insertion in subsection (1) after paragraph (g) of the following paragraphs:

- (gA) subject to applicable labour legislation, the regulation of medical aid and pension, after consultation with the Minister of Health and the Minister of Finance;
- (gB) the level of skills, expertise and competency that municipal managers and managers directly accountable to municipal managers must have;
- (gC) prohibiting the performance of remunerative work outside the municipality;”.

3. On page 7, from in line 33, to omit paragraph (*d*).
4. On page 7, after line 44, to insert:

“(g) the insertion in section 72 after subsection (2) of the following subsection:

“(2A) The Minister may, subject to applicable labour legislation and after consultation with the Minister for Public Service and Administration, make regulations relating to the duties, remuneration, benefits and other terms and conditions of employment of municipal managers and managers directly accountable to municipal managers.”.

NEW CLAUSE

1. That the following be a new Clause:

Amendment of section 120 of Act 32 of

12A. Section 120 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (*a*) of the following paragraph:

“(a) the matters listed in sections 22, 37, 49, 54A, 56, 72, 86A and 104;”.